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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/022,472      | 10/30/2001  | Ellen M. Meyer       | BDD.10171           | 1672             |

7590

07/28/2005

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EXAMINER

CHORBAJI, MONZER R

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/022,472

Applicant(s)

MEYER, ELLEN M.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,6-8,10,11,13,18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,10,11,13,18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to: See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

**This non-final action is in response to the amendment received on 05/12/2005**

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-7, 13 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (WO 99/46350).

With respect to claims 1 and 13, the Lin reference discloses a method for deodorizing an aqueous solution (page 1, numbered lines 6-10, page 10, numbered lines 25-30 and example 1) that includes adding an amount of 5-Chloro-2-methyl-4-isothiazolin-3-one as the organic halogen donor (page 10, table 4).

With respect to claims 6-7 and 18-19, the Lin reference teaches in table 4 of page 10 adding 0.024 percent by weight of a combination of 5-Chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one. For example, Conversion of 300 ppm to %w:  $(300 \text{ ppm}) / (10,000 \text{ ppm} / \%) = 0.03 \% \text{ w}$ . Thus, 0.024 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one represents 240 ppm together. For example, if 0.001 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one is combined with 0.023 % w of 2-methyl-4-isothiazolin-3-one totaling 0.024 % w, then 0.001 % w of 5-Chloro-2-methyl-4-isothiazolin-3-one represents 10 ppm, which falls within the recited ranges in claims 6-7 and 18-19.

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3. Claims 8 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox et al (U.S.P.N. 6,106,853).

With respect to claim 8, the Cox reference, which is in the art of deodorizing the atmosphere (col.1, lines 23-24, lines 54-56 and col.23, lines 50-55) of a tank (i.e., aqueous system), teaches spraying (col.6, lines 51-53) an aqueous solution (col.8, lines 10-11) of a halogenated succinimides or halogenated hydantion organic halogen donor (col.8, lines 63-67 and col.9, lines 1-7 and lines 19-21).

With respect to claims 10-11, the Cox reference teaches adding n-bromosuccinimide (col.9, line 6) and also adding 1-bromo-3-chloro-5, 5-dimethyldantoin (col.9, line 5).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 6-8, 10-11, 13 and 18-19 have been considered but are moot in view of the new ground(s) of rejection.

The Cox reference is used to show that deodorizing the atmosphere of a holding tank (i.e., aqueous system) by spraying an aqueous composition that includes a halogenated succinimides or halogenated hydantion organic halogen donor into the headspace of the tank is known.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

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6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN KIM can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji *MRC*  
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AU 1744  
07/25/2005

*John Kim*  
**JOHN KIM**  
SUPERVISORY PATENT EXAMINER